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Attorneys for Defendant, Berkshire Bank

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

IVANHOE LAUGIER
131 West Bridge Street
New Hope, PA 18938,

Plaintiff,

vs.

BRICK CITY MOTORS, INC.
346 Broadway Avenue
Newark, NJ 07104

And

BERKSHIRE BANK
24 North Street
Pittsfield, MA 01201

And

ROUTE 22 TOYOTA
109 U.S. 22
Hillside, NJ 07205

And

46 AUTO IMPORTS, LLC
400 Route 46 East
Totowa, NJ 07512

And

JOHN DOES 1-10,

Defendants.

Civil Action No.: 2:13-cv-00413-WHW-CLW

Civil Action

**ANSWER, AFFIRMATIVE DEFENSES,
CROSS CLAIMS AND JURY DEMAND**

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Berkshire Bank, having its corporate address at 24 North Street, Pittsfield, Massachusetts 01202, by way of Answer to the Complaint of the Plaintiff, Ivanhoe Laugier, says:

I. Preliminary Statement

Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained within Plaintiff's "Preliminary Statement" and Plaintiff is left to his proofs.

II. Jurisdiction and Venue

1. Paragraph 1 of Plaintiff's Complaint states a legal conclusion and no answer is required from this Defendant.

2. Paragraph 2 of Plaintiff's Complaint states a legal conclusion and no answer is required from this Defendant.

III. Parties

3. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained within Paragraph 3 of the Complaint and Plaintiff is left to his proofs.

4. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained within Paragraph 4 of the Complaint and Plaintiff is left to his proofs.

5. The allegations contained within Paragraph 5 of the Complaint are admitted in part and denied in part. Defendant denies "doing substantial business in the State of New Jersey. The remainder of the allegations contained within Paragraph 5 of the Complaint are admitted.

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6. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained within Paragraph 6 of the Complaint and Plaintiff is left to his proofs.

7. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained within Paragraph 7 of the Complaint and Plaintiff is left to his proofs.

8. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained within Paragraph 8 of the Complaint and Plaintiff is left to his proofs.

IV. Operative Facts

9. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained within Paragraph 9 of the Complaint and Plaintiff is left to his proofs.

10. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained within Paragraph 10 of the Complaint and Plaintiff is left to his proofs.

10. (Misnumbered) The allegations contained within Paragraph 10 of the Complaint are admitted in part and denied in part. Defendant admits that dealer financing was assigned to Defendant Berkshire Bank, however the remainder of Paragraph 10 of Plaintiff's Complaint sets forth an accusation based upon a legal conclusion and is denied by this Defendant.

11. The allegations contained within Paragraph 11 of the Complaint are admitted in part and denied in part. Defendant Berkshire Bank did collect payments from the Plaintiff at one point, however, Defendant Berkshire Bank denies "collecting payments...since" as the subject

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loan has been paid off and Defendant Berkshire Bank is no longer collecting payments on the subject loan from Plaintiff.

12. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained within Paragraph 12 of the Complaint and Plaintiff is left to his proofs.

13. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained within Paragraph 13 of the Complaint and Plaintiff is left to his proofs.

14. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained within Paragraph 14 of the Complaint and Plaintiff is left to his proofs.

15. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained within Paragraph 15 of the Complaint and Plaintiff is left to his proofs.

16. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained within Paragraph 16 of the Complaint and Plaintiff is left to his proofs.

17. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained within Paragraph 17 of the Complaint and Plaintiff is left to his proofs.

18. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained within Paragraph 18 of the Complaint and Plaintiff is left to his proofs.

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19. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained within Paragraph 19 of the Complaint and Plaintiff is left to his proofs.

20. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained within Paragraph 20 of the Complaint and Plaintiff is left to his proofs.

21. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained within Paragraph 21 of the Complaint and Plaintiff is left to his proofs.

22. The allegations contained within Paragraph 22 of the Complaint are denied.

23. The allegations contained within Paragraph 23 of the Complaint are denied.

24. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained within Paragraph 24 of the Complaint and Plaintiff is left to his proofs.

25. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained within Paragraph 25 of the Complaint and Plaintiff is left to his proofs.

V. Causes of Action

COUNT I

49 U.S.C. §§32701 et seq. (Odometers)

26. Defendant repeats and re-alleges each and every allegation contained in the preceding paragraphs as if fully set forth at length herein.

27. The allegations contained within Paragraph 27 of the Complaint are denied.

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28. The allegations contained within Paragraph 28 of the Complaint are denied.

29. The allegations contained within Paragraph 29 of the Complaint are denied.

COUNT II

Violations of the Consumer Fraud Act, N.J.S.A., 56:8-68 et seq.

30. Defendant repeats and re-alleges each and every allegation contained in the preceding paragraphs as if fully set forth at length herein.

31. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained within Paragraph 31 of the Complaint and Plaintiff is left to his proofs.

32. The allegations contained within Paragraph 32 of the Complaint are denied.

33. Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations contained within Paragraph 33 of the Complaint and Plaintiff is left to his proofs.

VI. Prayer for Relief

WHEREFORE, Berkshire Bank, demands judgment against Plaintiff, Ivanhoe Laugier, dismissing the Plaintiff's Complaint, together with costs, attorneys' fees, and such other relief as this Court may deem to be necessary and proper.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

If the Plaintiff suffered losses or damages, same were caused by the negligence, breach of contract, breach of express or implied warranties or acts or omissions of the co-defendants.

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SECOND AFFIRMATIVE DEFENSE

At all times relevant, this Defendant complied with all applicable laws, regulations and standards.

THIRD AFFIRMATIVE DEFENSE

Plaintiff's Complaint is barred for failure to satisfy the requirements of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-2, et. seq. and/or N.J.S.A. 56:12-1, et. seq.

FOURTH AFFIRMATIVE DEFENSE

Defendant adopts by reference all Separate Defenses heretofore or hereafter pled by any co-defendant except such Separate Defenses as may make any allegations against this Defendant.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's Complaint, as to Defendant Berkshire Bank, fails to state a cause of action upon which relief may be granted.

SIXTH AFFIRMATIVE DEFENSE

The injuries and damages complained of were the proximate result of the negligence and/or acts or omissions of the other defendants or of third parties over whom this Defendant had no control.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by insufficiency of process.

EIGHTH AFFIRMATIVE DEFENSE

The claims asserted in the Complaint against this Defendant on the basis of alleged joint and several liability are barred since the acts and omissions of all other defendants were separate and distinct from those of this Defendant and neither the Common Law nor any Federal or State

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Statute renders this Defendant jointly and severally liable for the acts or omissions of other defendants.

NINTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by lack of jurisdiction over the person.

TENTH AFFIRMATIVE DEFENSE

Plaintiff's lacks standing to assert the claims alleged against this Defendant.

ELEVENTH AFFIRMATIVE DEFENSE

Defendant denies any negligent misrepresentation, intentional misrepresentation or fraudulent concealment.

TWELFTH AFFIRMATIVE DEFENSE

Defendant denies the applicability of punitive damage theories under the facts of this litigation and, in any event, this Defendant denies it is so liable under said theories.

THIRTEENTH AFFIRMATIVE DEFENSE

Defendant's conduct was not the proximate cause of the Plaintiff's alleged losses, injuries or damages.

FOURTEENTH AFFIRMATIVE DEFENSE

Defendant was at all times engaged in the reasonable operation of its business.

FIFTEENTH AFFIRMATIVE DEFENSE

Defendant denies that Plaintiff has suffered any losses or damages; in any event, any losses or damages sustained by Plaintiff are de minimis, remote, speculative and/or transient and hence are not cognizable at law.

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SIXTEENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by the applicable Statute of Limitations.

SEVENTEENTH AFFIRMATIVE DEFENSE

At all relevant times, this Defendant conducted themselves in full compliance with all applicable Federal, State and Local Laws, Statutes, Ordinances and Regulations, which compliance bars Plaintiff from asserting the claims herein.

EIGHTEENTH AFFIRMATIVE DEFENSE

Plaintiff's Complaint fails to state a cause of action over which this Court has proper subject matter jurisdiction.

CROSS CLAIM FOR CONTRIBUTION

Although Defendant Berkshire Bank denies any liability whatsoever, Defendant demands contribution from the other co-defendants or other parties to this action for the proportionate share of any and all sums that may be adjudged against this Defendant in this action.

CROSS CLAIM FOR INDEMNIFICATION

Although this Defendant denies any liability, Defendant nonetheless asserts that any and all damages sustained by the Plaintiff were the proximate result of the negligence of the other co-defendants, or of other parties to this action whose negligence was primary and active. If Berkshire Bank is found liable to the Plaintiff with respect to said damages, such liability resulted solely from secondary, imputed, vicarious or passive negligence. Accordingly, each and every co-defendant is liable to Berkshire Bank by way of indemnification, for any and all sums which Defendant may be required to pay in this action as a result of any negligent conduct and/or

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any act or omissions including any judgments and all costs and counsel fees incurred in defense of any claims in this action.

ANSWER TO CROSS CLAIMS

Defendant denies all allegations in all cross claims which have been filed against Defendant or may be filed in the future by other defendants, now in the case or hereafter joined as defendants, or additional party defendants.

WHEREFORE, Defendant Berkshire Bank, respectfully requests this Court to enter judgment in Defendant's favor, dismissing all cross claims asserted against Defendant Berkshire Hills Bancorp, Inc., together with costs, counsel fees and any additional relief permitted by law.

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By: /s/ Scott I. Unger, Esq.
SCOTT I. UNGER

Dated: October 17, 2013

DEMAND FOR TRIAL BY JURY

Defendant, Berkshire Bank, hereby demands a trial by jury pursuant to Fed. R. Civ. P. 38.

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By: /s/ Scott I. Unger, Esq.
SCOTT I. UNGER

Dated: October 17, 2013

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